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AMERICAN ACADEMY OF
EMERGENCY MEDICINE PHYSICIAN
GROUP, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO**

AMERICAN ACADEMY OF
EMERGENCY MEDICINE PHYSICIAN
GROUP, INC., a Wisconsin Corporation,

Plaintiff,

vs.

ENVISION HEALTHCARE
CORPORATION; A Delaware Corporation;
ENVISION PHYSICIAN SERVICES
L.L.C.; a Delaware Limited Liability
Corporation doing business in California
and DOES 1-100,

Defendants.

Case No.: 3:22-cv-00421-CRB

**JOINT STIPULATION AND
~~[PROPOSED]~~ ORDER TO VACATE
DISCOVERY CUTOFF AND
RELATED DEADLINES AND SET
CASE MANAGEMENT
CONFERENCE; OR, IN THE
ALTERNATIVE, CONTINUE
DISCOVERY CUTOFF AND
RELATED DEADLINES**

Judge: Hon. Charles R. Breyer

Complaint Filed: December 20, 2021
FAC Filed: February 18, 2022

Pursuant to Civil Local Rule 6-2 and 7-12, this stipulation is entered into by and between Plaintiff American Academy of Emergency Medicine Physician Group, Inc. (“Plaintiff”) and Defendants Envision Healthcare Corporation and Envision Physician Services, LLC (“Defendants”) collectively (the “Parties”), by and through their undersigned counsel of record, to extend the dates and deadlines currently pending in this matter by approximately six and a half months:

WHEREAS, on May 1, 2023, this Court entered an order setting the following dates and deadlines in this matter (Dkt. 81) (the “Scheduling Order”):

Event	Deadline
Completion of Fact Discovery	January 19, 2024
Exchange of Expert Reports	February 16, 2024
Exchange of Expert Rebuttal reports	March 15, 2024
Completion of Expert Discovery	April 19, 2024
Motions for Summary Judgment	January 19, 2024
Oppositions to Motions for Summary	May 3, 2024
Replies in Support of Motions for Summary Judgment	May 10, 2024
Summary Judgment Hearing	May 24, 2024
Trial	July 12, 2024

WHEREAS, on May 15, 2023, Defendant Envision Healthcare Corporation and Envision Physician Services, LLC (together, the “Defendants”) filed voluntary petitions under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the

1 “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of
2 Texas (the “Bankruptcy Court”), commencing the bankruptcy proceedings entitled *In re*
3 *Envision Healthcare Corporation*, Case No. 23-90342 (the “Bankruptcy Case”);

4 WHEREAS, pursuant to Section 362(a) of the Bankruptcy Code, Defendants’ filing
5 of their respective voluntary bankruptcy proceedings gave rise to a stay, applicable to all
6 entities, of, among other things, (a) the commencement or continuation of any judicial,
7 administrative, or other action or proceedings against Defendants (i) that was or could have
8 been commenced before the commencement of the Bankruptcy Case; or (ii) to recover a
9 claim against the Debtors that arose before the Bankruptcy Cases;

10 WHEREAS, on October 11, 2023, the Bankruptcy Court entered an order
11 confirming the Defendants plans of reorganization, the Third Amended Joint Chapter 11
12 Plan of Reorganization of the EVPS Debtors (the “Bankruptcy Plan”);

13 WHEREAS, on November 3, 2023, the Effective Date of the Bankruptcy Plan
14 occurred, and Defendants emerged from bankruptcy;

15 WHEREAS, immediately after the lifting of the stay, Defendants informed
16 Plaintiffs that the bankruptcy proceedings have resulted in substantial changes,
17 modifications, or discontinuances of certain portions of their business and operations in
18 California including those which they claim moots and/or resolves some or all issues in the
19 case;
20

21 WHEREAS, Plaintiff has requested further details concerning the alteration of
22 Defendants’ California operations in order to assess the manner in which this matter should
23 proceed, and the Parties have been engaged in the exchange of information, including the
24 voluntary production by Defendants of certain documents relating to Defendants’ cessation
25 of certain operations in California;

26 WHEREAS, Plaintiff and Defendants are presently engaged in the exchange of
27 information regarding such matters in an effort to determine a schedule to proceed. It is
28

anticipated that if Defendants make a dispositive motion based upon applicable legal principles such as, but not limited to, mootness, Article III standing, and ripeness that matter will be scheduled at a date and time to be determined;

WHEREAS, during the period of the stay from May 15, 2023 to November 3, 2023,¹ the Parties were barred by the Bankruptcy Code from proceeding with discovery, or utilizing much of the period provided for by the Scheduling Order and, to the extent that the matter proceeds, believe they will need the time elapsed during the stay to complete discovery and prepare this matter for trial;

NOW THEREFORE, the Parties hereby stipulate and agree, subject to the Court's approval:

1. That all dates and deadlines contained in the Court's latest scheduling order be vacated, to allow the Parties to continue to cooperatively come to resolution concerning amended pleadings, discovery, relevant parties, and the scope of remaining issues for trial, and that a case management conference be set for a date and time convenient to the Court not earlier than sixty, but not later than ninety days in the future; or

2. In the alternative, reset the case's deadlines in accordance with the proposed amended schedule below, which resets the dates in the case to reflect the length of the bankruptcy stay:

Event	Current Deadline	Proposed New Deadline
Completion of Fact Discovery	January 19, 2024	August 5, 2024

¹ 172 days elapsed between May 15, 2023, when Defendants filed for bankruptcy protection, and November 3, 2023, when Defendants emerged from bankruptcy. 26 days have elapsed since emergence and the filing of this stipulation. During those 26 days, the parties have met and conferred regarding this stipulation and the issues discussed herein. All dates in this table are reset approximately 198 days from the original date, except where adjustments were necessary in light of holidays or weekend days.

Exchange of Expert Reports	February 16, 2024	September 2, 2024
Exchange of Expert Rebuttal reports	March 15, 2024	September 30, 2024
Completion of Expert Discovery	April 19, 2024	November 4, 2024
Motions for Summary Judgment	January 19, 2024	August 5, 2024
Oppositions to Motions for Summary	May 3, 2024	November 18, 2024
Replies in Support of Motions for Summary Judgment	May 10, 2024	November 25, 2024
Summary Judgment Hearing	May 24, 2024	December 9, 2024
Trial	July 12, 2024	January 27, 2025

IT IS SO STIPULATED.

Dated: November 29, 2023

MILLSTEIN FELLNER LLP

By: /s/ David J. Millstein
 DAVID J. MILLSTEIN, ESQ.
 Attorneys for Plaintiff

Dated: November 29, 2023

MCDERMOTT WILL & EMERY LLP

By: /s/ Jason Strabo
 JASON D. STRABO, ESQ.
 Attorneys for Defendants

ATTESTATION PURSUANT TO LOCAL RULE 5-1(h)(3)

I, David J. Millstein, attest that concurrence in the filing of this Stipulation To Vacate Discovery Cutoff And Related Deadlines And Set Case Management Conference; Or, In The Alternative, Continue Discovery Cutoff And Related Deadlines has been obtained from the other signatory. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 29th day of November 2023, in San Francisco, California.

/s/ David J. Millstein
DAVID J. MILLSTEIN, ESQ.

PURSUANT TO STIPULATION, IT IS ORDERED THAT:

1. Given Defendants' recent emergence from bankruptcy, all existing dates and deadlines in the matter are hereby vacated; and

2. ~~A case management conference is set for _____, 2024 at _____.~~

~~OR~~

2. The following dates and deadlines are set in the matter:

Event	Current Deadline	Proposed New Deadline
Completion of Fact Discovery	January 19, 2024	August 5, 2024
Exchange of Expert Reports	February 16, 2024	September 2, 2024
Exchange of Expert Rebuttal reports	March 15, 2024	September 30, 2024
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Summary Judgment	May 24, 2024	December 9, 2024
Hearing		
Trial	July 12, 2024	January 27, 2025 TBD

DATED: November 30, 2023


THE HONORABLE CHARLES R. BREYER
United States District Judge